

## Message Text

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ACTION EUR-12

INFO OCT-01 ISO-00 ACDA-07 IO-13 SAJ-01 CIAE-00 DODE-00  
PM-04 H-01 INR-07 L-03 NSAE-00 NSC-05 PA-01 PRS-01  
SP-02 SS-15 USIA-06 EB-07 DOTE-00 COME-00 TRSE-00  
/086 W

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R 130910Z JAN 77  
FM USMISSION USBERLIN  
TO SECSTATE WASHDC 3790  
AMEMBASSY BONN  
INFO AMEMBASSY BERLIN UNN  
AMEMBASSY LONDON  
AMEMBASSY MOSCOW  
AMEMBASSY PARIS  
USMISSION NATO

C O N F I D E N T I A L USBERLIN 0122

E.O.11652: GDS  
TAGS: PFOR, PGOV, WB, GW, UR  
SUBJECT: REICHSBAHN VIOLATIONS OF BK/O(49)217 AND RELATED  
MATTERS

REFS: A) STATE 003594 (NOTAL); B) 76 USBERLIN 2524

1. SUMMARY: ALLIED MISSIONS PRESENTLY HAVE SEVERAL  
REICHSBAHN MATTERS UNDER REVIEW. WE ARE ATTEMPTING TO  
DETERMINE APPROPRIATE ACTION FOR EACH, A PROCESS MADE  
MORE DIFFICULT BY POSSIBILITY THAT WHILE INDIVIDUALLY  
THEY MAY NOT AMOUNT TO MUCH, TAKEN TOGETHER THEY MAY  
SUGGEST A PATTERN OF INCREASED REICHSBAHN EFFORTS TO  
ESTABLISH INDEPENDENCE OF ALLIED CONTROLS. WE WILL  
BE REPORTING MORE FULLY AS THESE MATTERS ARE SORTED  
OUT FURTHER. END SUMMARY.

2. ITEM INCLUDED IN DECEMBER 22 DEPUTY POLAD NOTES  
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POUCHED TO DEPARTMENT AND EMBASSY STEMS FROM OBSERVATIONS  
MADE BY SENAT-ALLIED EMPLOYEE WERNER, WHO WITH  
SELIGER, SERVES AS OUR LIAISON TO REICHSBAHN. WERNER  
NOTED THAT EIGHT SEPARATE INCIDENTS IN BRITISH  
SECTOR SUGGESTED REICHSBAHN WAS TO INCREASING DEGREE  
IGNORING REQUIREMENT OF BK/O(49)217 THAT REICHSBAHN  
OBTAIN APPROVAL OF APPROPRIATE SECTOR AUTHORITIES

BEFORE SHIPPING OUT OF WESTERN SECTORS EQUIPMENT AND MATERIAL DEEMED USEFUL TO MAINTENANCE OF RAIL OPERATIONS. THIS IS, OF COURSE, BK/O AROUND WHICH MUCH OF LAST YEAR'S CONTROVERSY ON CONSTRUCTION OF NEW RAILWAY STATIONS CENTERED. WE HAD INSTRUCTED SELIGER AND WERNER TO BE ALERT TO ANY APPARENT CHANGE IN REICHSBAHN'S COMPLIANCE WITH THIS BK/O IN AFTERMATH OF THAT CONTROVERSY.

3. REICHSBAHN HAS FOR MOST PART CONTINUED TO SUBMIT APPLICATIONS IN AMERICAN SECTOR. AS NOTED ABOVE, HOWEVER, ITS RECORD IN BRITISH SECTOR IS LESS SATISFACTORY. ON SEVERAL OCCASIONS, BRITISH LEARNED AT LAST MINUTE OF SHIPMENT OF MATERIAL FOR WHICH NO APPLICATION HAD BEEN MADE. ON ONE OCCASION THEY WERE ABLE TO GET REICHSBAHN AGREEMENT TO SUBMIT APPLICATION FOLLOWING DAY ONLY AFTER BRITISH OFFICIALS AND MILITARY POLICE WENT TO STATION AND THREATENED TO HOLD UP TRAIN. IN RECENT MONTHS RATION OF APPLICATIONS TO SHIPMENTS APPEARS TO HAVE BEEN DETERIORATING, AND WERNER AND SELIGER HAVE BEEN GETTING NOWHERE IN THEIR EFFORTS TO SEE AND DISCUSS SUBJECT WITH LOEDICKE, TOP REICHSBAHN OFFICIAL IN CHARGE OF OPERATIONS IN WEST BERLIN WHO ASSUMED THIS POSITION WHEN RECONSTRUCTION OF THREE STATIONS IN WEST BERLIN BEGAN A YEAR AGO.

4. SECOND ISSUE STEMS FROM CIVIL LAW SUIT BROUGHT BY WEST BERLINER CHARGING REICHSBAHN WITH CONTRIBUTORY NEGLIGENCE IN ALLOWING AN INDIVIDUAL TO ESCAPE ON AN CONFIDENTIAL

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S-BAHN TRAIN AFTER HE HAD ROBBED WEST BERLINER IN STATION. REICHSBAHN CONTESTED CASE, AND COURT AWARDED PLAINTIFF JUDGMENT SLIGHTLY IN EXCESS OF DM 1000. REICHSBAHN HAS THUS FAR REFUSED TO PAY. SENAT REQUESTED US LAST SUMMER TO AUTHORIZE GARNISHMENT ACTION AGAINST REICHSBAHN SUGGESTING THAT COURT BAILIFF COULD SIMPLY GO TO MAIN CASHIER'S OFFICE IN WEST BERLIN AND TAKE REQUIRED AMOUNT OUT OF CASH REGISTER. ALLIES INITIALLY REFUSED THIS REQUEST, NOTING THAT WE HAD NEVER PREVIOUSLY AUTHORIZED GARNISHMENT AGAINST REICHSBAHN. MAIN PRECEDENT FOR OUR REFUSAL WAS IN CONNECTION WITH SERIES OF JUDGMENTS AWARDED BY WEST BERLIN LABOR COURT IN IMMEDIATE POST-BLOCKADE PERIOD WHEN REICHSBAHN FIRED LARGE NUMBER OF ITS POLITICALLY UNRELIABLE WEST BERLIN EMPLOYEES. SENAT TOLD US THAT CIVIL JUDGEMENTS OF SORT INVOLVED IN PRESENT CASE HAD NOT BEEN PROBLEM FOR MANY YEARS AND THAT REICHSBAHN HAD EITHER SETTLED CASES OUT OF COURT OR MADE VOLUNTARY PAYMENTS AFTER CONTESTING COURT CASE. WE TOLD SENAT

THAT IN AND OF ITSELF THIS CASE WOULD NOT SEEM TO  
CONSTITUTE SUFFICIENT GROUNDS FOR US TO CHANGE OUR  
POLICY BUT THAT WE WOULD WISH SENAT TO KEEP US INFORMED  
IF OTHER CASES AROSE AND IT APPEARED THAT REICHSBAHN  
ITSELF WAS FOLLOWING A NEW POLICY.

5. SENAT RETURNED TO MATTER LATER IN FALL, REQUESTING  
US TO RECONSIDER BECAUSE IT HAD BEGUN TO RECEIVE  
INQUIRIES FROM MEMBERS OF HOUSE OF REPRESENTATIVES  
AND BECAUSE IT WAS CONCERNED THAT REICHSBAHN'S ATTITUDE  
WAS PART OF A PATTERN INCLUDING DIFFICULTIES WITH  
BKXO(49)217. WE HAVE TAKEN MATTER BACK UNDER ADVISEMENT.

6. THIRD MATTER IS TARIFF INCREASE REICHSBAHN ANNOUNCED  
IT WAS GOING TO IMPOSE ON ALLIED MILITARY TRAINS  
EFFECTIVE FEBRUARY 1. THIS WAS REPORTED IN USBERLIN  
2524 (1976). ALLIED MISSIONS ARE IN PROCESS OF  
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OBTAINING TECHNICAL INFORMATION ON PAYMENT PROCEDURES,  
INCLUDING RELEVANT BUNDESBahn-REICHSBAHN PROCEDURES,  
AND WE ARE DEVELOPING TACTICAL SCENARIO. COMPLICATING  
FACTOR IS REIMBURSEMENT PROCEDURE; WE PAY ALL TARIFFS  
TO BUNDESBahn INCLUDING THOSE FOR SERVICES PERFORMED  
BY REICHSBAHN. BASING ITS ACTION OF 4 POWER  
DECISIONS, BUNDESBahn HAS APPARENTLY NOT TURNED OVER TO  
REICHSBAHN RECEIPTS FOR ALLIED PASSENGER TRAINS. WE ARE  
DIGGING INTO THIS MATTER.

7. ONE ISSUE WHICH WE ARE PRESENTLY DISCUSSING IN  
CONNECTION WITH ALL THREE MATTERS IS POSSIBLE UTILITY  
OF ATTEMPTING TO INVOLVE SOVIETS. CLEARER CASE  
APPEARS TO BE IN CONNECTION WITH PROPOSED FARE INCREASE  
WHERE THERE IS STRONG GROUND FOR INSISTING THAT  
SOVIETS PROVIDE QUADRIpartite COVER AND THAT TECHNICAL  
DISCUSSIONS THEN BE LEFT TO RESPECTIVE GERMAN TECHNICAL  
SERVICES INVOLVED, NAMELY BUNDESBahn FROM OUR SIDE AND  
REICHSBAHN FROM THEIRS. CONCEIVABLY WE MIGHT ALSO  
BE MENTIONED RAISE NON-PAYMENT OF COURT JUDGEMENT WITH SOVIETS  
NOTING THAT WE HAVE TRADITIONALLY EXERCISED RESTRAINT  
ON GARNISHMENT AND THAT WE HOPED REICHSBAHN WAS NOT  
GOING TO CREATE NEW DIFFICULTIES IN THIS AREA.  
PROBLEMS WITH BK/O(49)217 IMPLEMENTATION MIGHT ALSO  
BE MENTIONED TO SOVIETS WHO WILL UNDOUBTEDLY RECALL  
THAT WE PROVIDED THEM WITH SUBSTANTIAL DOCUMENTATION  
LAST YEAR ON THIS PROCEDURE IN CONNECTION WITH STATION  
CONSTRUCTION PROBLEM. WE EXPECT TO PRODUCE DETAILED  
RECOMMENDATIONS ON FARE INCREASE QUESTION SHORTLY.  
WE EXPECT ALSO TO HAVE MORE DEFINITIVE REPORT AND  
RECOMMENDATIONS ON OTHER TWO MATTERS IN NEXT WEEK OR

SO, BUT WE ARE STILL EXPLORING OTHER POSSIBLE ALTERNATIVES  
SUCH AS UTILIZING FUNDS OF WEST BERLIN CONTROLLED  
ADMINISTRATION OF FORMER REICHSBAHN PROPERTIES TO PAY  
COURT JUDGMENT (A PROCEDURE TO WHICH RESORT APPEARS  
OCCASIONALLY TO HAVE BEEN MADE AT LEAST IN 1950'S)  
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AND/OR FURTHER SELIGER-WERNER EFFORTS ON BOTH BK/O  
PROBLEM AND COURT JUDGMENT. DAVIS

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## Message Attributes

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